

EXHIBIT 11

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July 31, 2023

BY NYSCEF AND EMAIL

Honorable Francois A. Rivera
Kings County Supreme Court, Civil Term
360 Adams Street
Brooklyn, New York 11201

RE: 1380 REALTY NY, LLC v. YECHEZKEL KRAUT et al.
Index No. 505892/2023

Dear Judge Rivera:

We are counsel to plaintiff 1380 Realty NY, LLC (“Plaintiff”) in the above referenced action (the “Action”). Yesterday we received notification that defendant Yechezkel Kraut a/k/a Yechezkel Dov Kraut, (“Yechezkel”), through his attorney Barry R. Feerst, Esq. filed an unauthorized Notice of Discontinuance with Prejudice (the “NOD”) by which Mr. Feerst claims to be counsel for Plaintiff. Quite remarkably Mr. Feerst, who has not filed a Notice of Appearance in this action, asserts allegations in his NOD that are inconsistent with Plaintiff’s allegations and are not substantiated by any pleading filed in this action. Indeed, Yechezkel, who is alleged to have orchestrated the fraud that gives rise to this action, has neither answered the complaint filed herein nor appeared in this action. Nevertheless, in an apparent attempt to shield his fraudulent conduct, Yechezkel orchestrated a plan to discontinue the pending action with prejudice.

As a result, we are compelled to write to advise Your Honor of the misconduct being perpetrated by Yechezkel and Mr. Feerst on Plaintiff and the Court and to ask that Your Honor schedule an immediate conference to address the improper filing of the NOD.

Additionally, we respectfully request that the Court immediately removed the NOD from the Court’s docket to avoid confusing the defendants in this action. As a preliminary matter, the NOD should have been rejected because Holland & Knight is counsel of record to Plaintiff in this action, and there has been no substitution of counsel (as required by CPLR § 321) or any further basis by which Mr. Feerst could properly represent to this Court that he is acting as Plaintiff’s counsel in place and stead of Holland & Knight.

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Moreover, even assuming *arguendo* that Mr. Feerst had a basis to file the NOD, which he does not, the NOD is procedurally defective because defendant Shira Kraut filed an answer on April 21, 2023 and pursuant to CPLR § 3217(a)(1), a discontinuance of the action could only be accomplished through a stipulation signed by counsel for all parties of record. For these procedural reasons alone, the NOD should be stricken from the court's record.

Finally, to the extent that Yechezkel has claims that differ from the allegations asserted by Plaintiff in its complaint, the proper course of action is to file an answer and assert his claims. To date, Yechezkel has not done so, likely to avoid having this Court shed light on his bad acts. Instead, Yechezkel and Mr. Feerst are intent on trying to confuse the Court and the parties to this action by improperly filing the NOD. Such sharp practice and waste of judicial resources should not be tolerated by the Court. As a result of the improper filing of the NOD, we ask that the Court immediately strike the NOD and schedule a conference at the earliest opportunity to address the misconduct of Yechezkel and Mr. Feerst.

Respectfully,

HOLLAND & KNIGHT LLP

/s/ Keith M. Brandofino

Keith M. Brandofino, Partner

cc: All counsel of record
Barry R. Feerst, Esq. (By E-Mail)